

S. 737

IN THE SENATE OF THE UNITED STATES

Mr. STEVENSON (for himself and Mr. HEINZ) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide authority to regulate exports, to improve the efficiency of export regulation, and to minimize interference with the right to engage in commerce.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Export Administration
4 Act of 1979”.

5 FINDINGS

6 SEC. 2. The Congress makes the following findings:

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1 (1) The right of United States citizens to engage
2 in international commerce is a fundamental concern of
3 United States policy.

4 (2) Exports contribute significantly to the balance
5 of trade, employment, and production of the United
6 States.

7 (3) The availability of certain materials at home
8 and abroad varies so that the quantity and composition
9 of United States exports and their distribution among
10 importing countries may affect the welfare of the do-
11 mestic economy and may have an important bearing
12 upon fulfillment of the foreign policy of the United
13 States.

14 (4) The unrestricted export of goods and technol-
15 ogy without regard to whether they make a significant
16 contribution to the military potential of any other
17 nation or nations may adversely affect the national se-
18 curity of the United States.

19 (5) The unwarranted restriction of exports from
20 the United States has a serious adverse effect on our
21 balance of payments and domestic employment and
22 production, particularly when export restrictions ap-
23 plied by the United States are more extensive than
24 export restrictions imposed by other countries.

1 (6) The uncertainty of policy toward certain cate-
2 gories of exports has curtailed the efforts of American
3 business in those categories to the detriment of the
4 overall attempt to improve the trade balance of the
5 United States and to decrease domestic unemployment.

6 (7) Unreasonable restrictions on access to world
7 supplies can cause worldwide political and economic in-
8 stability, interfere with free international trade, and
9 retard the growth and development of nations.

10 DECLARATION OF POLICY

11 SEC. 3. The Congress makes the following declarations:

12 (1) It is the policy of the United States to mini-
13 mize uncertainties in export control policy and to en-
14 courage trade as a right not a privilege with all coun-
15 tries with which we have diplomatic or trading rela-
16 tions, except those countries with which such trade has
17 been determined by the President to be against the na-
18 tional interest.

19 (2) It is the policy of the United States to restrict
20 the right to export only after full consideration of the
21 impact on the economy of the United States and only
22 to the extent necessary—

23 (A) to protect the domestic economy from
24 the excessive drain of scarce materials and to

1 reduce the serious inflationary impact of foreign
2 demand;

3 (B) to further significantly the foreign policy
4 of the United States or to fulfill its declared inter-
5 national obligations; and

6 (C) to prevent the export of goods and tech-
7 nology which would make a significant contribu-
8 tion to the military potential of any other nation
9 or nations which could prove detrimental to the
10 national security of the United States.

11 (3) It is the policy of the United States (A) to for-
12 mulate, reformulate, and apply any necessary controls
13 to the maximum extent possible in cooperation with all
14 nations, and (B) to encourage observance of a uniform
15 export control policy by all nations with which the
16 United States has defense treaty commitments.

17 (4) It is the policy of the United States to use its
18 economic resources and trade potential to further the
19 sound growth and stability of its economy as well as to
20 further its national security and foreign policy objec-
21 tives.

22 (5) It is the policy of the United States—

23 (A) to oppose restrictive trade practices or
24 boycotts fostered or imposed by foreign countries

1 against other countries friendly to the United
2 States or against any United States person;

3 (B) to encourage and, in specified cases, re-
4 quire United States persons engaged in the export
5 of goods and technology to refuse to take actions,
6 including furnishing information or entering into
7 or implementing agreements, which have the
8 effect of furthering or supporting the restrictive
9 trade practices or boycotts fostered or imposed by
10 any foreign country against a country friendly to
11 the United States or against any United States
12 person; and

13 (C) to foster international cooperation and
14 the development of international rules and institu-
15 tions to assure reasonable access to world sup-
16 plies.

17 (6) It is the policy of the United States that the
18 desirability of subjecting, or continuing to subject, par-
19 ticular goods or technology to United States export
20 controls should be subjected to review by and consulta-
21 tion with representatives of appropriate United States
22 Government agencies and private industry.

23 (7) It is the policy of the United States to use
24 export controls, including license fees, to secure the re-
25 moval by foreign countries of restrictions on access to

1 supplies where such restrictions have or may have a
2 serious domestic inflationary impact, have caused or
3 may cause a serious domestic shortage, or have been
4 imposed for purposes of influencing the foreign policy
5 of the United States. In effecting this policy, the Presi-
6 dent shall make every reasonable effort to secure the
7 removal or reduction of such restrictions, policies, or
8 actions through international cooperation and agree-
9 ment before resorting to the imposition of controls on
10 exports from the United States. No action taken in ful-
11 fillment of the policy set forth in this paragraph shall
12 apply to the export of medicine or medical supplies.

13 (8) It is the policy of the United States to use
14 export controls to encourage other countries to take
15 immediate steps to prevent the use of their territories
16 or resources to aid, encourage, or give sanctuary to
17 those persons involved in directing, supporting, or par-
18 ticipating in acts of international terrorism. To achieve
19 this objective, the President shall make every reason-
20 able effort to secure the removal or reduction of such
21 assistance to international terrorists through interna-
22 tional cooperation and agreement before resorting to
23 the imposition of export controls.

1 AUTHORITY

2 SEC. 4. (a)(1) To the extent necessary to effectuate the
3 policies set forth in section 3 of this Act, the President may
4 prohibit or curtail the export, except under such rules and
5 regulations as he shall prescribe, of any goods or technology
6 subject to the jurisdiction of the United States or exported by
7 any person subject to the jurisdiction of the United States. To
8 the extent necessary to achieve effective enforcement of this
9 Act, such rules and regulations may apply to the financing,
10 transporting, and other servicing of exports and the participa-
11 tion therein by any person subject to the jurisdiction of the
12 United States. In curtailing the export of any goods or tech-
13 nology to effectuate the policy set forth in section 3(2)(A) of
14 this Act, the President is authorized to allocate a portion of
15 export licenses on the basis of factors other than a prior his-
16 tory of exportation.

17 (2)(A) In administering export controls for national se-
18 curity purposes as prescribed in section 3(2)(C) of this Act
19 and for foreign policy purposes as prescribed in section
20 3(2)(B) of this Act, United States policy toward individual
21 countries shall not be determined exclusively on the basis of a
22 country's Communist or non-Communist status but shall
23 take into account such factors as the country's present and
24 potential relationship to the United States, its present and
25 potential relationship to countries friendly or hostile to the

1 United States, its ability and willingness to control re-
2 transfers of United States exports in accordance with United
3 States policy, and such other factors as the President may
4 deem appropriate. The President shall review at least annu-
5 ally United States policy toward individual countries to de-
6 termine whether such policy is appropriate in light of the
7 factors specified in the preceding sentence. The results of
8 such review, together with the justification for United States
9 policy in light of such factors, shall be reported to Congress
10 in each report required by section 11 of this Act.

11 (B) Rules and regulations under this subsection may
12 provide for denial of any request or application for authority
13 to export goods or technology from the United States, its
14 territories and possessions, which would make a significant
15 contribution to the military potential of any nation or combi-
16 nation of nations threatening the national security of the
17 United States if the President determines that their export
18 could prove detrimental to the national security of the United
19 States. In administering export controls for national security
20 purposes as prescribed in section 3(2)(C) of this Act, priority
21 shall be given to preventing the effective transfer to countries
22 to which exports are controlled for national security purposes
23 of goods and technology critical to the design, development,
24 or production of military systems which would make a signifi-
25 cant contribution to the military potential of any nation or

1 nations which could prove detrimental to the national secu-
2 rity of the United States. The Secretary of Commerce, in
3 consultation with the Secretary of Defense, shall review not
4 less frequently than annually all controls maintained for na-
5 tional security purposes pursuant to this Act for the purpose
6 of making such revisions as may be necessary to insure that
7 export controls are limited, to the maximum extent possible
8 consistent with the purposes of this Act, to such militarily
9 critical goods and technologies and the mechanisms through
10 which they may be effectively transferred. A description of
11 actions taken to carry out this subsection shall be included in
12 each report required under section 11 of this Act. Such de-
13 scriptions shall contain as much detail as may be included
14 consistent with the national security and the need to maintain
15 the confidentiality of proprietary information.

16 (C) Prior to imposing, increasing, or extending export
17 controls for foreign policy purposes pursuant to the authority
18 provided by this Act, the President shall give full considera-
19 tion to—

20 (i) alternative means to further the foreign policy
21 purposes in question;

22 (ii) the ability of the United States Government to
23 control effectively the export of the goods or technol-
24 ogy in question;

1 (iii) the likelihood that foreign competitors will
2 join the United States in effectively controlling such
3 exports;

4 (iv) the probability that such controls will achieve
5 the intended foreign policy purpose;

6 (v) the effect of such controls on United States
7 exports, employment, and production, and on the inter-
8 national reputation of the United States as a supplier
9 of goods and technology; and

10 (vi) the reaction of other countries to the imposi-
11 tion or enlargement of such export controls by the
12 United States.

13 (D) Whenever the President imposes, increases, or ex-
14 tends export controls for foreign policy purposes pursuant to
15 authority provided by this Act, he shall immediately inform
16 the Congress of such action and make public a report specify-
17 ing his conclusions with respect to the considerations set
18 forth in this paragraph and indicating how such export con-
19 trols will further significantly the foreign policy of the United
20 States or fulfill its declared international obligations.

21 (E) The President shall not impose export controls for
22 foreign policy or national security purposes on the export
23 from the United States of goods or technology which he de-
24 termines is available without restriction from sources outside
25 the United States in significant quantities and comparable in

1 quality to those produced in the United States, unless the
2 President determines that adequate evidence has been pre-
3 sented to him demonstrating that the absence of such con-
4 trols would prove detrimental to the foreign policy or nation-
5 al security of the United States. Where, in accordance with
6 this paragraph, export controls are imposed for foreign policy
7 or national security purposes notwithstanding foreign avail-
8 ability, the President shall take steps to initiate negotiations
9 with the governments of the appropriate foreign countries for
10 the purpose of eliminating such availability.

11 (b)(1) Except as otherwise provided in this Act, the Sec-
12 retary of Commerce shall reorganize the Department of
13 Commerce as necessary to effectuate the policies set forth in
14 this Act. The Secretary of Commerce shall maintain a list of
15 goods and technology the export of which from the United
16 States, its territories and possessions, is prohibited or regu-
17 lated pursuant to this Act. The Secretary shall review such
18 list not less frequently than annually in order to make
19 promptly such changes and revisions as may be necessary or
20 desirable in furtherance of the policies set forth in this Act.
21 The Secretary shall include in each review an assessment of
22 the availability from sources outside the United States, its
23 territories and possessions, of goods and technology in signifi-
24 cant quantities and comparable in quality to those items in-
25 cluded on such list. In order to further effectuate the policies

1 set forth in this Act, the Secretary shall establish an Office of
2 Foreign Product and Technology Assessment, whose func-
3 tions shall include monitoring and gathering information on
4 the foreign availability of goods and technology subject to
5 export control. The Secretary shall include a detailed state-
6 ment with respect to actions taken in compliance with the
7 provisions of this paragraph in each report to the Congress
8 pursuant to section 11 of this Act.

9 (2) The Secretary of Commerce shall keep the public
10 fully apprised of changes in export control policy and proce-
11 dures instituted in conformity with this Act with a view to
12 encouraging trade. The Secretary shall meet regularly with
13 representatives of the business sector in order to obtain their
14 views on export control policy and the foreign availability of
15 goods and technology.

16 (c)(1)(A) To effectuate the policies set forth in this Act,
17 the Secretary of Commerce shall establish the following three
18 types of export licenses:

19 (i) A validated license.

20 (ii) A qualified general license.

21 (iii) A general license.

22 (B) As used in this subsection—

23 (i) a “validated license” is a license authorizing
24 the export of goods or technology pursuant to a docu-
25 ment issued upon application by an exporter in accord-

1 ance with rules and regulations issued pursuant to this
2 Act. A validated license may be required for the export
3 of goods and technology subject to multilateral controls
4 in which the United States participates or as deter-
5 mined pursuant to paragraph (2) of this subsection;

6 (ii) a "qualified general license" is a license au-
7 thorizing the export of goods or technology, or a class
8 of goods or technology, subject to the conditions con-
9 tained in rules and regulations issued pursuant to this
10 Act, and further subject to approval of the particular
11 consignee and end-use of the goods or technology. The
12 goods and technology subject to control by qualified
13 general license shall be determined pursuant to para-
14 graph (2) of this subsection; and

15 (iii) a "general license" is a license authorizing
16 the export of a class of goods or technology without
17 specific approval if the export is effected in accordance
18 with the conditions contained in rules and regulations
19 issued pursuant to this Act. All goods and technology
20 not subject to control by a validated license or by a
21 qualified general license shall be exportable pursuant to
22 a general license.

23 (2) To effectuate the policies set forth in section 3 of this
24 Act, it is the intent of Congress that the use of validated
25 licenses be limited to the greatest extent possible to the con-

1 trol of the export of goods and technology which are subject
2 to multilateral controls in which the United States partici-
3 pates. To the extent that the President determines that the
4 policies set forth in section 3 of this Act require the control of
5 the export of other goods and technology, or more stringent
6 controls than the multilateral controls, he will report to the
7 Congress within six months from the date of enactment of
8 this Act, and annually thereafter, the reasons for the need to
9 impose, or to continue to impose, such controls. It is further
10 the intent of Congress that export controls which exceed the
11 multilateral controls shall be effected to the greatest extent
12 possible by means of qualified general licenses.

13 (3) Within sixty days from the date of enactment of this
14 Act, the Secretary of Commerce shall prescribe conditions for
15 the use of end-use statements and the form of such state-
16 ments, and establish procedures for the approval of consign-
17 ees of goods and technology that may be exported pursuant
18 to a qualified general license.

19 (4) It is the intent of the Congress that any export li-
20 cense application required under this Act shall be approved
21 or disapproved within ninety days of its receipt. Upon the
22 expiration of the ninety-day period beginning on the date of
23 its receipt, any export license application required under this
24 Act which has not been approved or disapproved shall be
25 deemed to be approved and the license shall be issued unless

1 the Secretary of Commerce or other official exercising au-
2 thority under this Act finds that additional time is required
3 and notifies the applicant in writing of the specific circum-
4 stances requiring such additional time. Any application pend-
5 ing more than ninety days shall be referred to the Export
6 Administration Board established by paragraph (7) of this
7 subsection.

8 (5)(A) With respect to any export license application not
9 finally approved or disapproved within ninety days of its re-
10 ceipt as provided in paragraph (4) of this subsection, the ap-
11 plicant shall, to the maximum extent consistent with the na-
12 tional security of the United States, be informed in writing of
13 the specific questions raised and negative considerations or
14 recommendations made by any agency or department of the
15 Government with respect to such license application, and
16 shall be accorded an opportunity to respond to such ques-
17 tions, considerations, or recommendations in writing prior to
18 final approval or disapproval. In making such final approval
19 or disapproval, each official exercising authority under this
20 Act shall take fully into account the applicant's response.

21 (B) Whenever the Secretary determines that it is neces-
22 sary to refer an export license application to any interagency
23 review process for approval, he shall first, if the applicant so
24 requests, provide the applicant with an opportunity to review
25 any documentation to be submitted to such process for the

1 purpose of describing the export in question, in order to de-
2 termine whether such documentation accurately describes the
3 proposed export and to provide additional information in writ-
4 ing to be appended to the application.

5 (6) In any denial of an export license application, the
6 applicant shall be informed in writing of the specific statutory
7 basis for such denial. The Secretary shall establish appropri-
8 ate procedures for applicants to appeal denials of applica-
9 tions, and such procedures may include the opportunity for
10 appeals to the Export Administration Board established
11 under paragraph (7) of this subsection.

12 (7)(A) There is established an Export Administration
13 Board (hereinafter referred to as the "Board") composed of
14 three voting members, who shall be designated by the Secre-
15 tary of Commerce, the Secretary of Defense, and the Secre-
16 tary of State, respectively, and nonvoting, advisory members
17 named by the heads of such other departments and agencies
18 as the President may designate from time to time. The
19 member from the Department of Commerce shall preside
20 over all Board meetings. License applications referred to the
21 Board shall be approved or denied by an affirmative vote of
22 at least two of its three voting members. Any voting member
23 of the Board may appeal a decision of the Board to the
24 Export Administration Review Council, but only if such
25 appeal is made within five days of the Board's decision.

1 (B) There is established an Export Administration
2 Review Council (hereinafter referred to as the "Review
3 Council") composed of the Secretary of Commerce, the Sec-
4 retary of Defense, and the Secretary of State. The Secretary
5 of Commerce shall preside over meetings of the Review
6 Council. License applications referred to the Review Council
7 shall be approved or denied by an affirmative vote of at least
8 two of its three members. Any member of the Review Coun-
9 cil may appeal a decision of the Review Council to the Presi-
10 dent, but only if such appeal is made within five days of the
11 Review Council's decision.

12 (C) The President shall decide appeals from decisions of
13 the Review Council made pursuant to this Act, and review
14 annually the activities of the Board, the Review Council, and
15 the Department of Commerce to insure efficient implementa-
16 tion of the policies of this Act.

17 (D) Any application upon which the Board has reached
18 no decision within thirty days of receipt shall be referred to
19 the Review Council. Any application upon which the Review
20 Council has reached no decision within thirty days shall be
21 referred to the President. Any application not approved or
22 disapproved within one hundred and eighty days from initial
23 receipt by the Department of Commerce shall be deemed to
24 be approved and the license shall be issued by the Depart-

1 ment of Commerce, unless the applicant has consented in
2 writing to a longer period.

3 (d) The Secretary of Defense is authorized to review
4 any proposed export of goods or technology to any country to
5 which exports are controlled for national security purposes
6 and shall determine, in consultation with the Secretary of
7 Commerce and confirm in writing the types and categories of
8 transactions which should be reviewed by the Secretary of
9 Defense to carry out the purpose of this subsection. When-
10 ever a license or other authority is requested for the export of
11 goods or technology within such types or categories of trans-
12 actions to any country to which exports are restricted for
13 national security purposes, the Secretary of Commerce shall
14 notify the Secretary of Defense of such request, and may not
15 issue any license prior to the receipt of the recommendation
16 of the Secretary of Defense or the expiration of thirty days
17 after notification, whichever first occurs. The Secretary of
18 Defense shall carefully consider all notifications submitted
19 pursuant to this subsection and, not later than thirty days
20 after notification of the request shall—

21 (1) recommend to the Secretary of Commerce that
22 the proposed export be disapproved if he determines
23 that the export of such goods or technology will make
24 a significant contribution, which would prove detrimen-

1 tal to the national security of the United States, to the
2 military potential of such country or any other country;

3 (2) notify the Secretary of Commerce that he will
4 interpose no objection if appropriate conditions de-
5 signed to achieve the purposes of this Act are imposed;
6 or

7 (3) indicate that he does not intend to interpose
8 an objection to the export of such goods or technology.

9 If the Secretary of Commerce does not accept the recommen-
10 dation of the Secretary of Defense, upon the request of the
11 Secretary of Defense, the application shall be submitted to
12 the Export Administration Review Council.

13 (e) The Secretary of State is authorized to review any
14 proposed export of goods or technology to any country to
15 which exports are restricted for foreign policy purposes and
16 shall determine, in consultation with the Secretary of Com-
17 merce, and confirm in writing the types and categories of
18 transactions which should be reviewed by the Secretary of
19 State to carry out the purpose of this subsection. Whenever a
20 license is requested for the export of goods or technology
21 within such types or categories of transactions to any country
22 to which exports are restricted for foreign policy purposes,
23 the Secretary of Commerce shall notify the Secretary of
24 State of such request, and may not issue any license prior to
25 the receipt of the recommendation of the Secretary of State

1 or the expiration of thirty days after notification, whichever
2 first occurs. The Secretary of State shall carefully consider
3 all notifications submitted to him pursuant to this subsection
4 and, not later than thirty days after notification of the request
5 shall—

6 (1) recommend to the Secretary of Commerce that
7 the proposed export be disapproved if he determines
8 that prohibiting the export of such goods or technology
9 is necessary to further significantly the foreign policy
10 of the United States or to fulfill its declared interna-
11 tional obligations;

12 (2) notify the Secretary of Commerce that he will
13 interpose no objection if appropriate conditions de-
14 signed to achieve the purposes of this Act are imposed;
15 or

16 (3) indicate that he does not intend to interpose
17 an objection to the export of such goods or technology.
18 If the Secretary of Commerce does not accept the recommen-
19 dation of the Secretary of State, upon the request of the Sec-
20 retary of State, the application shall be submitted to the
21 Export Administration Review Council.

22 (f) Notwithstanding any other provision of law, any de-
23 partment, agency, or official of the Federal Government au-
24 thorized to review or make recommendations with respect to
25 export license applications required pursuant to this Act shall

1 determine, in consultation with the Secretary of Commerce,
2 and confirm in writing the types and categories of transac-
3 tions with specified countries which should be reviewed by
4 such department, agency, or official. Whenever a license is
5 requested for the export to such countries of goods or tech-
6 nology within such types and categories of transactions, the
7 Secretary of Commerce shall notify such department, agency,
8 or official of such request, and may not issue any license prior
9 to the receipt of the recommendation of such department,
10 agency, or official, or the expiration of thirty days following
11 such notification, whichever first occurs. Such department,
12 agency, or official shall carefully consider all notifications
13 submitted pursuant to this Act and, not later than thirty days
14 after notification of the request shall—

15 (1) recommend to the Secretary of Commerce that
16 the export of such goods or technology be disapproved;

17 (2) notify the Secretary of Commerce that such
18 department, agency, or official will interpose no objec-
19 tion if appropriate conditions are imposed; or

20 (3) indicate that such department, agency, or offi-
21 cial does not intend to interpose an objection to the
22 export of such goods or technology.

23 (g)(1) To effectuate the policy set forth in section 3
24 (2)(A) of this Act, the Secretary of Commerce shall monitor
25 exports, and contracts for exports, of any goods (other than a

1 commodity which is subject to the reporting requirements of
2 section 812 of the Agricultural Act of 1970) when the
3 volume of such exports in relation to domestic supply contrib-
4 utes, or may contribute, to an increase in domestic prices or a
5 domestic shortage, and such price increase or shortage has,
6 or may have, a serious adverse impact on the economy or
7 any sector thereof. Such monitoring shall commence at a
8 time adequate to insure that data will be available which is
9 sufficient to permit achievement of the policies of this Act.
10 Information which the Secretary requires to be furnished in
11 effecting such monitoring shall be confidential, except as pro-
12 vided in paragraph (2) of this subsection and in the last two
13 sentences of section 9(c) of this Act.

14 (2) The results of such monitoring shall, to the extent
15 practicable, be aggregated and included in weekly reports
16 setting forth, with respect to each item monitored, actual and
17 anticipated exports, the destination by country, and the do-
18 mestic and worldwide price, supply, and demand. Such re-
19 ports may be made monthly if the Secretary determines that
20 there is insufficient information to justify weekly reports.

21 (h) In imposing export controls to effectuate the policy
22 stated in section 3(2)(A) of this Act, the President's authority
23 shall include but not be limited to, the imposition of export
24 license fees.

1 (i)(1) Notwithstanding any other provision of this Act
2 and notwithstanding subsection (u) of section 28 of the Min-
3 eral Leasing Act of 1920, no domestically produced crude oil
4 transported by pipeline over rights-of-way granted pursuant
5 to section 28 of such Act (except any such crude oil which
6 (A) is exchanged in similar quantity for convenience or in-
7 creased efficiency of transportation with persons or the gov-
8 ernment of an adjacent foreign state, or (B) is temporarily
9 exported for convenience or increased efficiency of transpor-
10 tation across parts of an adjacent foreign state and reenters
11 the United States) may be exported from the United States,
12 its territories and possessions, during the two-year period be-
13 ginning on the date of enactment of this Act, unless the re-
14 quirements of paragraph (2) of this subsection are met.

15 (2) Crude oil subject to the prohibition contained in
16 paragraph (1) may be exported only if—

17 (A) the President makes and publishes an express
18 finding that exports of such crude oil—

19 (i) will not diminish the total quantity or
20 quality of petroleum available to the United
21 States;

22 (ii) will have a positive effect on consumer oil
23 prices by decreasing the average crude oil acquisi-
24 tion costs of refiners;

1 (iii) will be made only pursuant to contracts
2 which may be terminated if the petroleum sup-
3 plies of the United States are interrupted or seri-
4 ously threatened;

5 (iv) are in the national interest; and

6 (v) are in accordance with the provisions of
7 this Act; and

8 (B) the President reports such finding to the Con-
9 gress.

10 If the Congress, within thirty days of continuous session after
11 receipt of a report of the President under the preceding sen-
12 tence, adopts a concurrent resolution stating expressly that it
13 disapproves such export, the President shall promptly take
14 all necessary steps to prevent such export. For the purpose of
15 the preceding sentence—

16 (i) continuity of session is broken only by an ad-
17 journment of Congress sine die; and

18 (ii) the days on which either House is not in ses-
19 sion because of an adjournment of more than three
20 days to a day certain are excluded in the computation
21 of any period of time in which Congress is in continu-
22 ous session.

23 (j) Petroleum products refined in United States Foreign
24 Trade Zones, or in the United States Territory of Guam,
25 from foreign crude oil shall be excluded from any quantitative

1 restrictions imposed pursuant to section 3(2)(A) of this Act,
2 except that, if the Secretary of Commerce finds that a prod-
3 uct is in short supply, the Secretary of Commerce may issue
4 such rules and regulations as may be necessary to limit
5 exports.

6 (k)(1) The authority conferred by this section shall not
7 be exercised with respect to any agricultural commodity, in-
8 cluding fats and oils or animal hides or skins, without the
9 approval of the Secretary of Agriculture. The Secretary of
10 Agriculture shall not approve the exercise of such authority
11 with respect to any such commodity during any period for
12 which the supply of such commodity is determined by him to
13 be in excess of the requirements of the domestic economy,
14 except to the extent the President determines that such exer-
15 cise of authority is required to effectuate the policies set forth
16 in sections 3(2) (B) or (C) of this Act. The Secretary of Agri-
17 culture shall not approve the exercise of such authority with
18 respect to any such commodity unless he has (i) given full
19 consideration to the alternative of using the Commodity
20 Credit Corporation to purchase such commodity and arrange
21 sales to foreign governments in accordance with the provi-
22 sions of the Commodity Credit Corporation Charter Act so as
23 to stabilize markets and maximize returns to agricultural pro-
24 ducers, and (ii) determined that export controls are preferable

1 to such use of the authority granted by the Commodity
2 Credit Corporation Charter Act.

3 (2) Upon approval of the Secretary of Commerce, in
4 consultation with the Secretary of Agriculture, agricultural
5 commodities purchased by or for use in a foreign country may
6 remain in the United States for export at a later date free
7 from any quantitative limitations on export which may be
8 imposed pursuant to section 3(2)(A) of this Act subsequent to
9 such approval. The Secretary of Commerce may not grant
10 approval hereunder unless he receives adequate assurance
11 and, in conjunction with the Secretary of Agriculture, finds
12 that such commodities will eventually be exported, that nei-
13 ther the sale nor export thereof will result in an excessive
14 drain of scarce materials and have a serious domestic infla-
15 tionary impact, that storage of such commodities in the
16 United States will not unduly limit the space available for
17 storage of domestically owned commodities, and that the pur-
18 pose of such storage is to establish a reserve of such com-
19 modities for later use, not including resale to or use by an-
20 other country. The Secretary of Commerce is authorized to
21 issue such rules and regulations as may be necessary to im-
22 plement this paragraph.

23 (l) Nothing in this Act or the rules or regulations there-
24 under shall be construed to require authority or permission to

1 export, except where required by the President to effect the
2 policies set forth in section 3 of this Act.

3 (m) The President may delegate the power, authority,
4 and discretion conferred upon him by this Act to such depart-
5 ments, agencies, or officials of the Government as he may
6 deem appropriate, except that no authority under this Act
7 may be delegated to, or exercised by, any official of any de-
8 partment or agency whose head is not appointed by and with
9 the advice and consent of the Senate.

10 FOREIGN BOYCOTTS

11 SEC. 5. (a)(1) For the purpose of implementing the poli-
12 cies set forth in sections 3(5) (A) and (B), the President shall
13 issue rules and regulations prohibiting any United States
14 person, with respect to his activities in the interstate or for-
15 eign commerce of the United States, from taking or knowing-
16 ly agreeing to take any of the following actions with intent to
17 comply with, further, or support any boycott fostered or im-
18 posed by a foreign country against a country which is friendly
19 to the United States and which is not itself the object of any
20 form of boycott pursuant to United States law or regulation:

21 (A) Refusing, or requiring any other person to
22 refuse, to do business with or in the boycotted country,
23 with any business concern organized under the laws of
24 the boycotted country, with any national or resident of
25 the boycotted country, or with any other person, pur-

1 suant to an agreement with, a requirement of, or a re-
2 quest from or on behalf of the boycotting country. The
3 mere absence of a business relationship with or in the
4 boycotted country with any business concern organized
5 under the laws of the boycotted country, with any na-
6 tional or resident of the boycotted country, or with any
7 other person, does not indicate the existence of the
8 intent required to establish a violation of rules and reg-
9 ulations issued to carry out this subparagraph.

10 (B) Refusing, or requiring any other person to
11 refuse, to employ or otherwise discriminating against
12 any United States person on the basis of race, religion,
13 sex, or national origin of that person or of any owner,
14 officer, director, or employee of such person.

15 (C) Furnishing information with respect to the
16 race, religion, sex, or national origin of any United
17 States person or of any owner, officer, director, or em-
18 ployee of such person.

19 (D) Furnishing information about whether any
20 person has, has had, or proposes to have any business
21 relationship (including a relationship by way of sale,
22 purchase, legal or commercial representation, shipping
23 or other transport, insurance, investment, or supply)
24 with or in the boycotted country, with any business
25 concern organized under the laws of the boycotted

1 country, with any national or resident of the boycotted
2 country, or with any other person which is known or
3 believed to be restricted from having any business rela-
4 tionship with or in the boycotting country. Nothing in
5 this paragraph shall prohibit the furnishing of normal
6 business information in a commercial context as defined
7 by the Secretary of Commerce.

8 (E) Furnishing information about whether any
9 person is a member of, has made contributions to, or is
10 otherwise associated with or involved in the activities
11 of any charitable or fraternal organization which sup-
12 ports the boycotted country.

13 (F) Paying, honoring, confirming, or otherwise im-
14 plementing a letter of credit which contains any condi-
15 tion or requirement compliance with which is prohibit-
16 ed by rules and regulations issued pursuant to this
17 paragraph, and no United States person shall, as a
18 result of the application of this paragraph, be obligated
19 to pay or otherwise honor or implement such letter of
20 credit.

21 (2) Rules and regulations issued pursuant to paragraph
22 (1) shall provide exceptions for—

23 (A) complying or agreeing to comply with require-
24 ments (i) prohibiting the import of goods or services
25 from the boycotted country or goods produced or serv-

1 ices provided by any business concern organized under
2 the laws of the boycotted country or by nationals or
3 residents of the boycotted country, or (ii) prohibiting
4 the shipment of goods to the boycotting country on a
5 carrier of the boycotted country, or by a route other
6 than that prescribed by the boycotting country or the
7 recipient of the shipment;

8 (B) complying or agreeing to comply with import
9 and shipping document requirements with respect to
10 the country of origin, the name of the carrier and route
11 of shipment, the name of the supplier of the shipment
12 or the name of the provider of other services, except
13 that no information knowingly furnished or conveyed in
14 response to such requirements may be stated in nega-
15 tive, blacklisting, or similar exclusionary terms on or
16 after June 22, 1978, other than with respect to carri-
17 ers or route of shipment as may be permitted by such
18 rules and regulations in order to comply with precau-
19 tionary requirements protecting against war risks and
20 confiscation;

21 (C) complying or agreeing to comply in the
22 normal course of business with the unilateral and spe-
23 cific selection by a boycotting country, or national or
24 resident thereof, of carriers, insurers, suppliers of serv-
25 ices to be performed within the boycotting country or

1 specific goods which, in the normal course of business,
2 are identifiable by source when imported into the boy-
3 coting country;

4 (D) complying or agreeing to comply with export
5 requirements of the boycotting country relating to ship-
6 ments or transshipments of exports to the boycotted
7 country, to any business concern of or organized under
8 the laws of the boycotted country, or to any national
9 or resident of the boycotted country;

10 (E) compliance by an individual or agreement by
11 an individual to comply with the immigration or pass-
12 port requirements of any country with respect to such
13 individual or any member of such individual's family or
14 with requests for information regarding requirements of
15 employment of such individual within the boycotting
16 country; and

17 (F) compliance by a United States person resident
18 in a foreign country or agreement by such person to
19 comply with the laws of that country with respect to
20 his activities exclusively therein, and such rules and
21 regulations may contain exceptions for such resident
22 complying with the laws or regulations of that foreign
23 country governing imports into such country of trade-
24 marked, tradenamed, or similarly specifically identifi-
25 able products, or components of products for his own

1 use, including the performance of contractual services
2 within that country, as may be defined by such rules
3 and regulations.

4 (3) Rules and regulations issued pursuant to paragraphs
5 (2)(C) and (2)(F) shall not provide exceptions from para-
6 graphs (1)(B) and (1)(C).

7 (4) Nothing in this subsection may be construed to su-
8 persede or limit the operation of the antitrust or civil rights
9 laws of the United States.

10 (5) Rules and regulations pursuant to this subsection
11 shall be issued not later than 90 days after the date of enact-
12 ment of this section and shall be issued in final form and
13 become effective not later than 120 days after they are first
14 issued, except that (A) rules and regulations prohibiting neg-
15 ative certification may take effect not later than 1 year after
16 the date of enactment of this section, and (B) a grace period
17 shall be provided for the application of the rules and regula-
18 tions issued pursuant to this subsection to actions taken pur-
19 suant to a written contract or other agreement entered into
20 on or before May 16, 1977. Such grace period shall end on
21 December 31, 1978, except that the Secretary of Commerce
22 may extend the grace period for not to exceed 1 additional
23 year in any case in which the Secretary finds that good faith
24 efforts are being made to renegotiate the contract or agree-
25 ment in order to eliminate the provisions which are inconsist-

1 ent with the rules and regulations issued pursuant to para-
2 graph (1).

3 (6) This Act shall apply to any transaction or activity
4 undertaken, by or through a United States or other person,
5 with intent to evade the provisions of this Act as implement-
6 ed by the rules and regulations issued pursuant to this sub-
7 section, and such rules and regulations shall expressly pro-
8 vide that the exceptions set forth in paragraph (2) shall not
9 permit activities or agreements (expressed or implied by a
10 course of conduct, including a pattern of responses) otherwise
11 prohibited, which are not within the intent of such
12 exceptions.

13 (b)(1) In addition to the rules and regulations issued
14 pursuant to subsection (a) of this section, rules and regula-
15 tions issued under section 4(b) of this Act shall implement the
16 policies set forth in section 3(5).

17 (2) Such rules and regulations shall require that any
18 United States person receiving a request for the furnishing of
19 information, the entering into or implementing of agreements,
20 or the taking of any other action referred to in section 3(5)
21 shall report that fact to the Secretary of Commerce, together
22 with such other information concerning such request as the
23 Secretary may require for such action as he may deem appro-
24 priate for carrying out the policies of that section. Such
25 person shall also report to the Secretary of Commerce

1 trols. A petition under this section shall be in such form as
2 the Secretary of Commerce shall prescribe and shall contain
3 information demonstrating the need for the relief requested.

4 (b) Not later than thirty days after receipt of any peti-
5 tion under subsection (a), the Secretary of Commerce shall
6 transmit a written decision to the petitioner granting or deny-
7 ing the requested relief. Such decision shall contain a state-
8 ment setting forth the Secretary's basis for the grant or
9 denial. Any exemption granted may be subject to such condi-
10 tions as the Secretary deems appropriate.

11 (c) For purposes of this section, the Secretary's decision
12 with respect to the grant or denial of relief from unique hard-
13 ship resulting directly or indirectly from the imposition of
14 controls shall reflect the Secretary's consideration of such
15 factors as—

16 (1) whether denial would cause a unique hardship
17 to the petitioner which can be alleviated only by grant-
18 ing an exception to the applicable regulations. In de-
19 termining whether relief shall be granted, the Secre-
20 tary will take into account:

21 (A) ownership of material for which there is
22 not practicable domestic market by virtue of the
23 location or nature of the material;

24 (B) potential serious financial loss to the ap-
25 plicant if not granted an exception;

1 (C) inability to obtain, except through
2 import, an item essential for domestic use which
3 is produced abroad from the commodity under
4 control;

5 (D) the extent to which denial would conflict,
6 to the particular detriment of the applicant, with
7 other national policies including those reflected in
8 any international agreement to which the United
9 States is a party;

10 (E) possible adverse effects on the economy
11 (including unemployment) in any locality or region
12 of the United States; and

13 (F) other relevant factors, including the ap-
14 plicant's lack of an exporting history during any
15 base period that may be established with respect
16 to export quotas for the particular commodity; and

17 (2) the effect a finding in favor of the applicant
18 would have on attainment of the basic objectives of the
19 short supply control program.

20 In all cases, the desire to sell at higher prices and thereby
21 obtain greater profits will not be considered as evidence of a
22 unique hardship, nor will circumstances where the hardship is
23 due to imprudent acts or failure to act on the part of the
24 petitioner.

1 CONSULTATION AND STANDARDS

2 SEC. 7. (a) In determining what shall be controlled or
3 monitored under this Act, and in determining the extent to
4 which exports shall be limited, any department, agency, or
5 official making these determinations shall seek information
6 and advice from the several executive departments and inde-
7 pendent agencies concerned with aspects of our domestic and
8 foreign policies and operations having an important bearing
9 on exports. Such departments and agencies shall fully coop-
10 erate in rendering such advice and information. Consistent
11 with considerations of national security, the President shall
12 from time to time seek information and advice from various
13 segments of private industry in connection with the making
14 of these determinations. In addition, the Secretary of Com-
15 merce shall consult with the Secretary of Energy to deter-
16 mine whether, in order to effectuate the policy stated in sec-
17 tion 3(2)(A) of this Act, monitoring of controls are necessary
18 with respect to exports of facilities, machinery, or equipment
19 normally and principally used, or intended to be used, in the
20 production, conversion, or transportation of fuels and energy
21 (except nuclear energy), including but not limited to, drilling
22 rigs, platforms, and equipment; petroleum refineries, natural
23 gas processing, liquefaction, and gasification plants; facilities
24 for production of synthetic natural gas or synthetic crude oil;
25 oil and gas pipelines, pumping stations, and associated equip-

1 ment; and vessels for transporting oil, gas, coal, and other
2 fuels.

3 (b)(1) In authorizing exports, full utilization of private
4 competitive trade channels shall be encouraged insofar as
5 practicable, giving consideration to the interests of small
6 business, merchant exporters as well as producers, and estab-
7 lished and new exporters, and provision shall be made for
8 representative trade consultation to that end. In addition,
9 there may be applied such other standards or criteria as may
10 be deemed necessary by the head of such department, or
11 agency, or official to carry out the policies of this Act.

12 (2) Upon imposing quantitative restrictions on exports of
13 any goods or technology to carry out the policy stated in
14 section 3(2)(A) of this Act, the Secretary of Commerce shall
15 include in the notice published in the Federal Register an
16 invitation to all interested parties to submit written com-
17 ments within fifteen days from the date of publication of the
18 impact of such restrictions and the method of licensing used
19 to implement them.

20 (c)(1) Upon written request by representatives of a sub-
21 stantial segment of any industry which produces goods or
22 technology which are subject to export controls or are being
23 considered for such controls because of their significance to
24 the national security of the United States, the Secretary of
25 Commerce shall appoint a technical advisory committee for

1 any grouping of such goods or technology which he deter-
2 mines is difficult to evaluate because of questions concerning
3 technical matters, worldwide availability and actual utiliza-
4 tion of production and technology, or licensing procedures.
5 Each such committee shall consist of representatives of
6 United States industry and government, including the De-
7 partments of Commerce Defense, and State, and, when ap-
8 propriate, other Government departments and agencies. No
9 person serving on any such committee who is representative
10 of industry shall serve on such committee for more than four
11 consecutive years.

12 (2) It shall be the duty and function of the technical
13 advisory committees established under paragraph (1) to
14 advise and assist the Secretary of Commerce and any other
15 department, agency, or official of the Government of the
16 United States to which the President has delegated power,
17 authority, and discretion under section 4(e) with respect to
18 actions designed to carry out the policy set forth in section 3
19 of this Act. Such committees, where they have expertise in
20 such matters, shall be consulted with respect to questions
21 involving (A) technical matters, (B) worldwide availability
22 and actual utilization of production technology, (C) licensing
23 procedures which affect the level of export controls applica-
24 ble to any goods or technology, and (D) exports subject to
25 multilateral controls in which the United States participates

1 including proposed revisions of any such multilateral controls.
2 The Secretary shall include in each report required by section
3 11 of this Act an accounting of the consultation undertaken
4 pursuant to this paragraph, the use made of the advice ren-
5 dered by the technical advisory committees pursuant to this
6 paragraph, and the contributions of the technical advisory
7 committees to carrying out the policies of this Act. Nothing
8 in this subsection shall prevent the Secretary from consult-
9 ing, at any time, with any person representing industry or
10 the general public regardless of whether such person is a
11 member of a technical advisory committee. Members of the
12 public shall be given a reasonable opportunity, pursuant to
13 regulations prescribed by the Secretary of Commerce, to
14 present evidence to such committees.

15 (3) Upon request of any member of any such committee,
16 the Secretary may, if he determines it appropriate, reimburse
17 such member for travel, subsistence, and other necessary ex-
18 penses incurred by him in connection with his duties as a
19 member.

20 (4) Each such committee shall elect a chairman, and
21 shall meet at least every three months at the call of the
22 Chairman, unless the Chairman determines, in consultation
23 with the other members of the committee, that such a meet-
24 ing is not necessary to achieve the purposes of this Act. Each
25 such committee shall be terminated after a period of two

1 years, unless extended by the Secretary for additional periods
2 of two years. The Secretary shall consult each such commit-
3 tee with regard to such termination or extension of that
4 committee.

5 (5) To facilitate the work of the technical advisory com-
6 mittees, the Secretary of Commerce, in conjunction with
7 other departments and agencies participating in the adminis-
8 tration of this Act, shall disclose to each such committee ade-
9 quate information, consistent with national security, pertain-
10 ing to the reasons for the export controls which are in effect
11 or contemplated for the grouping of goods or technology with
12 respect to which that committee furnishes advice.

13 (6) Whenever a technical advisory committee certifies to
14 the Secretary of Commerce that goods or technology have
15 become or will imminently become available in fact from
16 sources outside the United States in sufficient quantity and of
17 comparable quality so as to render United States export con-
18 trols ineffective in achieving the purposes of this Act, and
19 provides adequate documentation for such certification, the
20 Secretary of Commerce shall either remove export controls
21 on such goods or technology or submit a recommendation to
22 the President regarding the termination or continuation of
23 such controls.

1

VIOLATIONS

2

SEC. 8. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than \$25,000 or imprisoned not more than one year, or both. For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved or \$50,000, whichever is greater, or imprisoned not more than five years, or both.

10

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, shall be fined not more than five times the value of the exports involved or \$50,000, whichever is greater, or imprisoned not more than five years, or both.

18

(c)(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed \$10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

1 (2)(A) The authority under this Act to suspend or
2 revoke the authority of any United States person to export
3 goods or technology may be used with respect to any viola-
4 tion of the rules and regulations issued pursuant to section
5 5(a) of this Act.

6 (B) Any administrative sanction (including any civil pen-
7 alty or any suspension or revocation of authority to export)
8 imposed under this Act for a violation of the rules and regula-
9 tions issued pursuant to section 5(a) of this Act may be im-
10 posed only after notice and opportunity for an agency hearing
11 on the record in accordance with sections 554 through 557 of
12 title 5, United States Code.

13 (C) Any charging letter or other document initiating ad-
14 ministrative proceedings for the imposition of sanctions for
15 violations of the rules and regulations issued pursuant to sec-
16 tion 5(a) of this Act shall be made available for public inspec-
17 tion and copying.

18 (d) The payment of any penalty imposed pursuant to
19 subsection (c) may be made a condition, for a period not ex-
20 ceeding one year after the imposition of such penalty, to the
21 granting, restoration, or continuing validity of any export li-
22 cense, permission, or privilege granted or to be granted to
23 the person upon whom such penalty is imposed. In addition,
24 the payment of any penalty imposed under subsection (c) may
25 be deferred or suspended in whole or in part for a period of

1 time no longer than any probation period (which may exceed
2 one year) that may be imposed upon such person. Such a
3 deferral or suspension shall not operate as a bar to the collec-
4 tion of the penalty in the event that the conditions of the
5 suspension, deferral, or probation are not fulfilled.

6 (e) Any amount paid in satisfaction of any penalty im-
7 posed pursuant to subsection (c) shall be covered into the
8 Treasury as a miscellaneous receipt. The head of the depart-
9 ment or agency concerned may, in his discretion, refund any
10 such penalty, within two years after payment, on the ground
11 of a material error of fact or law in the imposition. Notwith-
12 standing section 1346(a) of title 28, United States Code, no
13 action for the refund of any such penalty may be maintained
14 in any court.

15 (f) In the event of the failure of any person to pay a
16 penalty imposed pursuant to subsection (c), a civil action for
17 the recovery thereof may, in the discretion of the head of the
18 department or agency concerned, be brought in the name of
19 the United States. In any such action, the court shall deter-
20 mine de novo all issues necessary to the establishment of
21 liability. Except as provided in this subsection and in subsec-
22 tion (d), no such liability shall be asserted, claimed, or recov-
23 ered upon by the United States in any way unless it has
24 previously been reduced to judgment.

25 (g) Nothing in subsection (c), (d), or (f) limits—

1 (1) the availability of other administrative or judi-
2 cial remedies with respect to violations of this Act, or
3 any regulation, order, or license issued under this Act;

4 (2) the authority to compromise and settle admin-
5 istrative proceedings brought with respect to violations
6 of this Act, or any regulation, order, or license issued
7 under this Act; or

8 (3) the authority to compromise, remit or mitigate
9 seizures and forfeitures pursuant to section 1(b) of title
10 VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

11 ENFORCEMENT

12 SEC. 9. (a) To the extent necessary or appropriate to
13 the enforcement of this Act or to the imposition of any penal-
14 ty, forfeiture, or liability arising under the Export Control
15 Act of 1949, the head of any department or agency exercis-
16 ing any function thereunder (and officers or employees of
17 such department or agency specifically designated by the
18 head thereof) may make such investigations and obtain such
19 information from, require such reports or the keeping of such
20 records by, make such inspection of the books, records, and
21 other writings, premises, or property of, and take the sworn
22 testimony of, any person. In addition, such officers or em-
23 ployees may administer oaths or affirmations, and may by
24 subpoena require any person to appear and testify or to appear
25 and produce books, records, and other writings, or both, and

1 in the case of contumacy by, or refusal to obey a subpoena
2 issued to, any such person, the district court of the United
3 States for any district in which such person is found or re-
4 sides or transacts business, upon application, and after notice
5 to any such person and hearing, shall have jurisdiction to
6 issue an order requiring such person to appear and give testi-
7 mony or to appear and produce books, records, and other
8 writings, or both, and any failure to obey such order of the
9 court may be punished by such court as a contempt thereof.

10 (b) No person shall be excused from complying with any
11 requirements under this section because of his privilege
12 against self-incrimination, but the immunity provisions of the
13 Compulsory Testimony Act of February 11, 1893 (27 Stat.
14 443; 49 U.S.C. 46) shall apply with respect to any individual
15 who specifically claims such privilege.

16 (c) Except as otherwise provided by the third sentence
17 of section 5(b)(2) and by section 8(c)(2)(C) of this Act, infor-
18 mation obtained under this Act, which is deemed confidential
19 or with reference to which a request for confidential treat-
20 ment is made by the person furnishing such information, shall
21 be exempt from disclosure under section 552(b)(3)(B) of title
22 5, United States Code, and such information shall not be
23 published or disclosed unless the Secretary of Commerce de-
24 termines that the withholding thereof is contrary to the na-
25 tional interest. Nothing in this Act shall be construed as au-

1 thorizing the withholding of information from Congress, and
2 all information obtained at any time under this Act or previ-
3 ous Acts regarding the control of exports, including any
4 report or license application required under section 4(a), shall
5 be made available upon request to any committee or subcom-
6 mittee of Congress of appropriate jurisdiction. No such com-
7 mittee or subcommittee shall disclose any information ob-
8 tained under this Act or previous Acts regarding the control
9 of exports which is submitted on a confidential basis unless
10 the full committee determines that the withholding thereof is
11 contrary to the national interest.

12 (d) In the administration of this Act, reporting require-
13 ments shall be so designed as to reduce the cost of reporting,
14 recordkeeping, and export documentation required under this
15 Act to the extent feasible consistent with effective enforce-
16 ment and compilation of useful trade statistics. Reporting,
17 recordkeeping, and export documentation requirements shall
18 be periodically reviewed and revised in the light of develop-
19 ments in the field of information technology. A detailed state-
20 ment with respect to any action taken in compliance with this
21 subsection shall be included in the report required by section
22 11 of this Act.

23 (e) The Secretary of Commerce, in consultation with ap-
24 propriate United States Government departments and agen-
25 cies and with appropriate technical advisory committees es-

1 tablished under section 7(c), shall review the rules and regu-
2 lations issued under this Act and the lists of goods and tech-
3 nology which are subject to export controls in order to deter-
4 mine how compliance with the provisions of this Act, can be
5 facilitated by simplifying such rules and regulations, by sim-
6 plifying or clarifying such lists, or by any other means. The
7 Secretary of Commerce shall report periodically to Congress
8 on the actions taken on the basis of such review to simplify
9 such rules and regulations. Such reports may be included in
10 the report required by section 11 of this Act.

11 EXEMPTION FROM CERTAIN PROVISIONS RELATING TO
12 ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

13 SEC. 10. The functions exercised under this Act shall be
14 subject to the provisions of sections 551, 553 through 559,
15 and 701 through 706 of title 5, United States Code, except in
16 those cases described in regulations prescribed by the Secre-
17 tary of Commerce where applicability of such provisions
18 would be inconsistent with the purposes of this Act, but such
19 regulations may not apply to any case described in section
20 8(c)(2) or 9(c) of this Act.

21 ANNUAL REPORT

22 SEC. 11. (a) The Secretary of Commerce shall make an
23 annual report to the President and to the Congress of his
24 operations hereunder.

1 (b)(1) Each such report shall include summaries of the
2 information contained in the reports required by section
3 4(c)(2) of this Act, together with an analysis by the Secretary
4 of Commerce of—

5 (A) the impact on the economy and world trade of
6 shortages or increased prices for goods and technology
7 subject to monitoring under this Act;

8 (B) the worldwide supply of such goods and tech-
9 nology; and

10 (C) actions taken by other nations in response to
11 such shortages or increased prices.

12 (2) Each such report shall also contain an analysis by
13 the Secretary of Commerce of—

14 (A) the impact on the economy and world trade of
15 shortages or increased prices for commodities subject
16 to the reporting requirements of section 812 of the Ag-
17 ricultural Act of 1970;

18 (B) the worldwide supply of such commodities;
19 and

20 (C) actions being taken by other nations in re-
21 sponse to such shortages or increased prices.

22 The Secretary of Agriculture shall fully cooperate with the
23 Secretary of Commerce in providing all information required
24 by the Secretary of Commerce in making such analysis.

25 (c) Each such report shall include—

(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4(a) of this Act;

5 (2) any changes in the exercise of the authorities
6 of section 4(b) of this Act;

7 (3) any delegations of authority under section 4(e)
8 of this Act;

9 (4) the disposition of export license applications
10 pursuant to section 4 (g) and (h) of this Act;

11 (5) consultations undertaken with technical advi-
12 sory committees pursuant to section 7(c) of this Act;

13 (6) violations of the provisions of this Act and
14 penalties imposed pursuant to section 8 of this Act;
15 and

(7) a description of actions taken by the President and the Secretary of Commerce to effect the policies set forth in section 3(5) of this Act.

19 DEFINITIONS

20 SEC. 12. As used in this Act—

(1) the term “person” includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

1 (2) the term "United States person" means any
2 United States resident or national (other than an indi-
3 vidual resident outside the United States and employed
4 by other than a United States person), any domestic
5 concern (including any permanent domestic establish-
6 ment of any foreign concern) and any foreign subsidi-
7 ary or affiliate (including any permanent foreign estab-
8 lishment) of any domestic concern which is controlled
9 in fact by such domestic concern, as determined under
10 regulations of the President;

11 (3) the term "goods" means any article, material,
12 supply or manufactured product, including inspection
13 and test equipment, and excluding technical data; and

14 (4) the term "technology" means the information
15 and know-how that can be used to design, produce,
16 manufacture, utilize, or reconstruct goods, including
17 computer software and technical data.

18 EFFECTS ON OTHER ACTS

19 SEC. 13. (a) The Act of February 15, 1936 (49 Stat.
20 1140), relating to the licensing of exports of tinplate scrap, is
21 hereby superseded; but nothing contained in this Act shall be
22 construed to modify, repeal, supersede, or otherwise affect
23 the provisions of any other laws authorizing control over ex-
24 ports of any commodity.

1 (b) The authority granted to the President under this
2 Act shall be exercised in such manner as to achieve effective
3 coordination with the authority exercised under section 414
4 of the Mutual Security Act of 1954 (22 U.S.C. 1934).

5 AUTHORIZATION OF APPROPRIATIONS

6 SEC. 14. (a) Notwithstanding any other provision of
7 law, no appropriation shall be made under any law to the
8 Department of Commerce for expenses to carry out the pur-
9 poses of this Act for any fiscal year commencing on or after
10 October 1, 1980, unless previously and specifically author-
11 ized by legislation.

12 (b) There are authorized to be appropriated to the De-
13 partment of Commerce \$8,000,000 (and such additional
14 amounts as may be necessary for increases in salary, pay,
15 retirement, other employee benefits authorized by law, and
16 other nondiscretionary costs) for fiscal year 1980 to carry out
17 the purposes of this Act, of which \$1,250,000 shall be availa-
18 ble only for the Office of Foreign Product and Technology
19 Assessment.

20 EFFECTIVE DATE

21 SEC. 15. (a) This Act takes effect upon the expiration of
22 the Export Administration Act of 1969.

23 (b) All outstanding delegations, rules, regulations,
24 orders, licenses, or other forms of administrative action under
25 the Export Control Act of 1949 or section 6 of the Act of

53

1 July 2, 1940 (54 Stat. 714), of the Export Administration
2 Act of 1969 shall, until amended or revoked, remain in full
3 force and effect, the same as if promulgated under this Act.

4 TERMINATION DATE

5 SEC. 16. The authority granted by this Act terminates
6 on September 30, 1983, or upon any prior date which the
7 President by proclamation may designate.

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